



**PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	University of Dundee	Examiner:	Stephen L. Rawlings, Ph.D.
Serial No.	09/581,651	Group Art Unit:	1642
Filed:	10 October 2000	Docket No.	350013-72
Title:	POLYPEPTIDES, POLYNUCLEOTIDES AND USES THEREOF		

**CERTIFICATE UNDER 37 CFR 1.8**

I hereby certify that this correspondence and identified enclosures are being deposited with the United States Postal Service, first class mail, postage prepaid, under 37 C.F.R. 1.8 on the date indicated, and is addressed to Mail Stop Petition, P.O. Box 1450, Commissioner for Patents, Alexandria, VA 22313-1450 on November 3, 2003.

Elizabeth Bui

Mail Stop Petition  
P.O. Box 1450  
Commissioner for Patents  
Alexandria, VA 22313-1450

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DECLARATION OF GUY P. SMITH

I, GUY P. SMITH, hereby declare as follows:

1. I am an attorney for Oppenheimer, Wolff and Donnelly LLP, whom represent the Applicant in the above-identified patent application.

2. The Examiner, Dr. Stephen Rawlings, called our office on August 26, 2003 inquiring as to whether we had responded to an office action of January 14, 2003. Since we had no intention of abandoning the case, I had the Examiner fax a copy of the non-final Office Action (3 pages) mailed January 14, 2003 to our Santa Monica, California office that same day. Later that day I reviewed the above-identified application file and did not see any non-final Office Action mailed January 14, 2003 in the file. Therefore, to the best of my knowledge, our

firm did not receive and record the non-final Office Action mailed January 14, 2003 from the U.S.P.T.O.

3. The firm's normal docketing procedure is to record any type of correspondence received from the United States Patent and Trademark Office (U.S.P.T.O.). After it is recorded, the firm's docketing specialist, Philip Wheeler, the correspondence is routed to my secretary, Charlotte Jensen, and myself.

4. Oppenheimer, Wolff and Donnelly attorney dockets are handled in the following manner: (1) Correspondence from the U.S.P.T.O. is recorded; (2) Pertinent dates to respond by are entered if a response to the correspondence is necessary. For example, in the above-identified application, the non-final Office Action requiring a sequence listing compliant under 37 CFR sections 1.821-825, mailed January 14, 2003 was not received. Therefore, the given one month or thirty (30) days from the mailing date of the notice to respond was not entered; (3) Each attorney receives a weekly docket showing the various actions and their due dates in chronological order. Moreover, attorney dockets have prospective actions which are due over a period of six (6) months; and (4) The attorney docket information sheets are always printed on green 8 ½ x 11 inch size paper, to distinguish it from other similarly sized papers.

5. The Patent Record Sheet (Exhibit A of Philip Wheeler's Declaration) of the above-identified patent application shows that there was no record of the aforementioned non-final Office Action mailed January 14, 2003. Thus Ms. Jensen and myself were unaware of any shortened period of time thereof to respond. Therefore, to the best of my knowledge, there was never a receipt of the non-final Office Action dated January 14, 2003 in the first place.

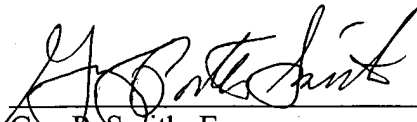
6. In conclusion, based on my expertise and experience, the above-mentioned communication from the U.S.P.T.O. was never received by our firm and thus never recorded by Philip Wheeler. Because it was never recorded, no information regarding the above-identified patent application could be routed to Ms. Jensen or to me. Therefore, absent a record of receipt of the aforementioned non-final Office Action, the filing of a response to the U.S.P.T.O. in a timely manner was unavoidable. Stated another way, we unavoidably abandoned the above-identified patent application because we did not know of its existence.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that

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these statements were made with the knowledge that willful false statements the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent application issuing thereon.

Respectfully submitted,



Guy P. Smith, Esq.

**OPPENHEIMER, WOLFF & DONNELLY LLP**

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